

Testimony of Rita Dallago, Executive Director
Pennsylvania Residential Owners' Association
Before the Senate Urban Affairs Committee
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Chairman Yaw, members of the Senate Urban Affairs and Housing Committee, my name is Rita Dallago and I am the executive director of the Pennsylvania Residential Owners' Association (PROA). PROA is the trade association representing more than 8,000 member landlords. Most of our members own properties with less than ten units located in every corner of the state.

Thank you for inviting us to share our thoughts on SB 1291, the Neighborhood Blight Reclamation and Revitalization Act.

On behalf of PROA, I would like to commend Senator Argall and his staff for taking on the very difficult challenge of blight. We share the Senator's goal. Blight affects our communities, our livelihoods and our tenants' quality of life.

Having said that, however, PROA believes careful consideration should be given before SB 1291 moves forward along the legislative process. We believe this not just because of the potential for harmful – albeit unintentional – consequences it poses – but the fact that the legislature just passed HB 2188, the conservatorship bill, which creates a mechanism to address many of the concerns that SB 1291 is attempting to address.

This new law hasn't been given the sufficient test of time to see if additional measures are needed and PROA urges legislative restraint in passing new laws before we can sufficiently judge whether the conservatorship statute is working.

PROA believes that SB 1291's scope has a far reaching impact on the rights of property owners – small business, large businesses, homeowners, and landlords. We believe that enforcement of current laws and utilization of the tools that local governments already possess are a more appropriate method to address blight

The bill proposes two mechanisms that impact owners of property. The first creates a right of action against property and owners; the second allows third parties to take "conservatorship" of an owner's property; and the third allows for the denial of all state licenses and permits to property owners for any housing code violations.

The first segment of the bill creates "actions against owners of blighted property". It would allow any neighbor or tenant, of any residential, commercial, or industrial property, to bring a civil action against a property owner to correct alleged code violations before a district justice. The violations permitting the lawsuit against a property owner would be any violation, without regard to the nature or significance of the alleged violation.

The concept of allowing private citizens to enforce public housing codes would institute a new theory into the law. Municipalities across the state are presently equipped with significant enforcement tools against properties that are truly blighted or dangerous. Creating a new cause of action for tenants of rental property, or a disgruntled neighbor of any property, to sue for correction of the most minor code violations has the potential to create lawsuit abuses.

Frivolous and retaliatory lawsuits brought by tenants or feuding neighbors could explode. The time and legal costs of defending such actions will create a significant burden upon owner and tenant occupied properties. Businesses will be constantly at the mercy of area residents complaining about perceived code violations.

PROA recommends this Section 6111(a) be amended to limit those parties in interest that can bring a lawsuit to a municipality or other governmental body.

SB 1291 would provide that any uncorrected code violation will result not only in a lien against the property, but personal liability against the owner and all of the owner's other assets. This change represents a fundamental shift in jurisprudence tradition. Matters involving property have always been in rem actions, not in personum. PROA recommends that Section 6112(1) and Section 6113 be changed to in rem actions and the lien be placed against the property.

We are concerned about requiring corporate owners to provide their drivers' licenses as part of a public record. PROA believes that it is not only unfair but dangerous. We are concerned about personal safety, identity theft and privacy.

We also believe that there would be an impact on economic development as well. Can you imagine asking Bill Gates and the board of directors of Microsoft or Intel for their drivers' license as a condition to open a factory in Pennsylvania? Here, again, we believe that there is already an appropriate remedy in place. It is our understanding that all corporations doing business in Pennsylvania must register with the Department of State and foreign corporations must have a point of contact for service of process.

PROA recommends that the Section 6114 be deleted from the bill.

PROA recommends significant changes be made to Subchapter E, State and Local Government Permit Denials. Chief among the issues can be found on page 27, Section 6142, Municipal Permit Denial. This section seems to create the proverbial "Catch 22". If one has a property in disrepair, and has received a code violation, how does one obtain the necessary permits to do repairs? This seems to run counter to the overall goal of getting the property owner into compliance.

There is a more fundamental issue here. There may be legitimate disputes in question and this section does not afford one the opportunity to resolve those issues. For instance, if a landlord is disputing a tax assessment or water bill, the municipality would have the authority to deny the issuing of a permit. The authority to deny a permit, when

legitimate issues are being disputed, could potentially create the situation where the exercise of one's due process is simply abandoned. In fact, this section does not provide any due process whatsoever.

PROA is concerned that Section 6142 could be used as a hammer to beat land lords into submission when genuine disputes exist. Further, PROA is concerned that when there is a legitimate issue and repairs are necessary, one would be forced into the untenable situation to do work without the necessary permits in hand or face further sanctions. PROA would like to see Section 6142 eliminated from the legislation. In the alternative, PROA would like Section 6142 amended to reflect these concerns. We would recommend the following language:

Amend bill page 27, line 28 by striking out lines 12 – 30.

- (1) Absent a bona fide dispute, a municipality may deny issuing to an applicant a building permit, zoning permit, zoning variance, municipal license, municipal permit or municipal approval for contemplated action that requires the approval of the municipality.
- (2) The applicant owns any property in any municipality that has been determined to be in serious violation of applicable State or municipal housing, building property maintenance or fire safety code requirements and has not taken substantial steps within six months following notification of the violation to bring the property into code compliance. Upon a showing in good faith by the applicant that the property will be remediated, the municipality shall issue permits for remediation of the property in violation in accordance with applicable laws and regulations.

Again, I would like to commend Senator Argall for his efforts to combat this very serious issue.